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[LLB]
IInd sem

JURIS PRUDENCE

(6) Legal & Equitable ownership →

Legal ownership is that which has its origin in the rule of common law

where as the Equitable ownership is that which has its origin from the rule of equity

both of them are closely connected with each other but have the some distinction as it is in trust & beneficial ownership

(7) Vested & contingent ownership →

In vested ownership the title of the owner is already perfect, the ownership is absolute.

where as in the contingent ownership the title is ^{as} yet imperfect but it is capable of becoming perfect on the fulfilment of some condition.

example

A person leaves his Property to his wife for her life if she dies to A and on the death of A to B

here both their ownership is contingent since A will get the Property on the death of wife and B will get the Property on the death of A

(8) Absolute & limited ownership :-

when all the rights of ownership ex
possession
enjoyment
disposal

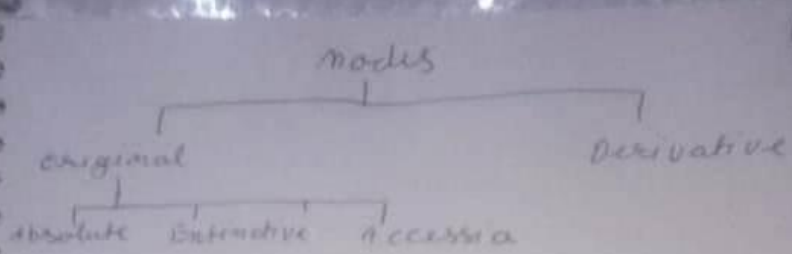
are vested in a person without any
restriction is called Absolute ownership

but when there is restriction as to use
duration & disposal the ownership is
called the limited ownership

MODES OF ACQUISITION OF OWNERSHIP

There are two modes of Acquisition of
ownership these are

- (1) original
- (2) Derivative



Absolute → when a thing is acquired naturally (res nullius) means which have no previous owner

- 1) occupatio → ~~absolute~~
- 2) specificatio

B) → Extinctive Acquisition →
 when a person by some act on his part extinguishes the ownership of the previous owner & acquires the ownership it is called extinctive acquisition
 ex ownership by prescription or adverse possession for a prescribed period

C) ~~Accessia~~
 Accessia → This is called Accessory acquisition
 This is called when the ownership of a property is acquired by way of accession to some existing property

TITLES

of Accession.—This is called accessory acquisition that is, when the ownership of a property is acquired by way of accession to some existing property. Examples are produce of land or animals or fruits of trees. *Mansueta* is termed this mode of acquisition as *Procy* which means acquiring by accession.

2. Derivative Acquisition.—When ownership is derived from a previous owner, it is called derivative acquisition of ownership. It takes place when ownership is acquired by inheritance or gift or purchase etc. In the Indian context, the law of succession, transfer of property, sale of goods etc., regulate acquisition of ownership of the property by derivative mode.

Ownership and Possession—Distinguished

Being rightly pointed out, possession is the external realisation of ownership. Possession is *de facto* exercise of a claim, ownership is the *de jure* form of a right. For example, a rented house is actually in possession of the tenant but the ownership of it is vested in the landlord.

Possession is the external evidence of ownership. The possessor of a thing is presumed to be the owner of it and may put all other claimants to prove their title. Long possession is a source of ownership.

When possession by the law (general title is created in the name of the possessor of the thing).

Every right in its widest sense, includes privilege, powers and immunities and "involves a title or source from which it is derived." As Salmond rightly pointed out, "title is the *de facto* antecedent of which the right is the *de jure* consequent". The law confers a right upon a person because of certain facts which are true of him but not as regards other persons. These facts are the title of that right. There are certain rights which a person acquires by birth, namely, right to life, liberty, reputation etc. whereas there are others which the man acquires for himself, e.g. by contract, judgment of the Court or other transaction. Thus a right may either be vested in a person or he might derive it from some other source. In either case, there must be some basis of fact from which it emanates or takes its roots.

Definition and Nature of Title

The term 'title' has originated from the Roman word *titulus* which was called 'title' in the French law. Salmond holds that title is the fifth element of a legal right. He says 'title is a source the product of which is a legal right. He does not accept title as an element of right. He

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Produce of land, animal, fruits of tree